IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 205 OF 1997.

The Commissioner of Income TaX ... Applicant.

V/s.

M/s Rajlaxmi Mercantile Co. .. Respondent.

Shri Pankaj Kapoor with Shri Ashok Kotangale and
A.S. Rao for the applicant.

CORAM : V.C.DAGA AND J.P. DEVADHAR, JJ.

DATED : 17.10.2005.

P.C. :

. By this reference under section 256 (1) of the Income-tax Act, 1961, the Income-tax Appellate Tribunal has referred the following question of law for the opinion of this Court:

> Whether on the facts and in the circumstances of the case, the Tribunal was right in law in upholding the order of the CIT(A) in directing the assessing officer to allow investment allowance u/s 32A of the Act on the machineries leased out by the assessee company even though the assessee itself is not engaged in the manufacture or production of articles or things?

. Learned Counsel for the parties agreed that the above question is already answered by the decision of the Apex Court in the case of **CIT vs.Shaan Finance (P) Ltd.- (1998) 231 ITR 308 (SC)** in the affirmative i.e. in favour of the assessee and against the Revenue. In this view of the matter, we answer the above question in the

affirmative i.e. in favour of the assessee and against the Revenue.

. Reference accordingly stands disposed of with no order as to costs.

(J.P. DEVADHAR,J.) **(V.C. DAGA,J.)**